

# Chapter 5 Agricultural and Rural Conservation

## Vision

*Talbot County's undeveloped and working agricultural lands are precious resources that are critical to the rural character and quality of life which the Comprehensive Plan seeks to preserve. Residential and commercial development pressures are no longer in conflict with preservation of the rural landscape, thanks to the land use policies put in place to direct growth toward designated areas and otherwise preserve agricultural and forest lands.*

*The keystone preservation strategy is for critical tracts of undeveloped land to be placed under conservation easements. Comprehensive planning that designates preservation and growth areas, combined with rigorously enforced zoning ordinances and a range of land preservation incentives, maintain a balance of land uses and foster agricultural operations.*

## Goal

Conserve Talbot County's agricultural land base and preserve its rural character by directing growth to existing population centers and securing permanent conservation easements in predominantly rural areas.

## I. Introduction

Agriculture is a significant part of Talbot County life, both as a major industry and as an important contributor to the county's distinctive character. Working farmland is a valuable and limited natural resource that once developed, cannot be reclaimed for agricultural use.

Conservation of working land is an important component of support to the agricultural industry. In spite of increasing development pressure on agricultural and open space lands, Talbot County continues to derive benefit from conserving these elements of rural character.

In order to preserve agricultural land and open space, the County, in 1991, adopted a comprehensive rezoning of rural and agricultural lands, reducing the density permitted in agricultural areas from one dwelling unit per two acres. In its place, zoning now allows a variable density somewhat less than one unit per twenty acres on most farmland. This density has been modified by SB236, discussed in Chapter 2 (Land Use).

To maintain the commercial viability of agriculture, clustering of subdivided lots is generally required. Code amendments passed in 2007 eliminated the opportunity to increase development intensity through the use of Transferable Development Rights (TDRs).

To further protect agriculture as a land use activity, a Right to Farm ordinance was enacted in 2000, stressing the County's commitment to agriculture and helping to protect farmers from unwarranted nuisance complaints.

The most current Census of Agriculture reports an increase in area and number of farms from 2002 to 2007, and again in 2012. New calculations bring numbers close to the farm acres from 1982. The average farm size remains below the historic high in 1997.

Some of these fluctuations may be due to changes in the definition of farming operations or the way census data were gathered. The period was also one of industry consolidation, followed by a recent interest in the establishment of smaller specialty farms.

### **General Agricultural Land Use Policies**

5.1 Agricultural and forestry activities are the primary and preferred land use activity in rural areas of the county.

5.2 Agricultural and forestry activities should be conducted in accordance with best management practices for soil and water conservation which are approved by the Natural Resources Conservation Service.

5.3 Agriculturally-related commercial and industrial uses are permitted in the non-Critical areas of the county, provided these uses can be compatible with surrounding land uses and do not adversely impact environmentally sensitive areas.

5.4 Low density single-family residential construction is permitted in agricultural areas. Development design standards for rural residential development should insure the conservation of agricultural lands, open space, woodlands, environmentally sensitive areas and rural character.

5.5 Rural landowners should be provided the opportunity to transfer development rights from a property in order to maintain development equity and conserve agricultural lands and open space.

## **II. Existing Land Preservation Programs**

### **A. MALPF**

Founded in 1977, the Maryland Agricultural Land Preservation Foundation (MALPF) is one of the oldest and most successful programs of its kind in the nation. The MALPF program is intended to permanently protect farmland by offering landowners financial incentives to voluntarily sell development rights. The Foundation's purpose is to preserve sufficient agricultural land to maintain a viable food and fiber production capacity for present and future citizens of Maryland. The program is administered by the County and State in an equitable partnership.

Talbot County has a moderately successful MALPF program. Community participation has been steadfast and increasing. Landowners have applied to establish easements on an increasing number of farms in every application period. Each annual round of easement purchases has been highly competitive, with only the highest quality farmland purchased in any year.

Presently, Talbot County's MALPF holdings consist of 10,905 acres in 71 easements, with 11,003 acres on 88 properties vying for future easement purchases. See Map 5-1 for the locations of properties that have been permanently preserved by through MALPF and other easement programs.

As a MALPF Certified County, Talbot is qualified to retain a portion of agricultural transfer taxes collected in the county, to be reserved for land preservation. The County has used, and intends to use, all retained funds to purchase development rights, supplement MALPF payments, or promote the sale or purchase of easements. Certification allows Talbot County to retain 2/3 of all agricultural transfer tax revenues collected, for the sole purpose of purchasing agricultural easements in the county.

Easement applications reached a record high in 2006, as State funds for land preservation peaked. Most of the decade was characterized by dramatic increases in land value, and a corresponding increase in easement acquisition costs. The net effect was a greater per-acre cost to purchase agricultural easements.

By 2008, land preservation in the County and State came to a halt, due to the economic recession and its impact on tax revenues which fund the MALPF program. With little funds available to purchase easements, progress in land preservation has slowed considerably.

In order to add predictability and a greater degree of local control, the County should pursue additional sources of funding, both public and private, to acquire conservation easements.

Talbot County remains committed to assisting local property owners who are interested in participating in MALPF or other local, regional, state and national conservation programs. The County will continue to work with the State to actively encourage more farmers to participate in MALPF and other programs.

## **B. Conservation Programs**

### **1. Land Trusts**

Non-profit land trusts play an invaluable role helping to protect the county's rural and agricultural landscape. Unlike MALPF, which purchases easements for cash, land trusts typically accept donated easements in exchange for federal and State income tax credits and deductions.

Over one half of the land that is preserved from future subdivision and development in the county has been protected (at no cost to the County) by two such organizations the Eastern Shore Land Conservancy (ESLC) and the Maryland Environmental Trust (MET). These organizations craft conservation easements that extinguish legal development rights and hold easements on preserved lands. The easements are recognized as tax deductible donations. Property owners who wish to voluntarily conserve land agree to deed restrictions that preserve farmland, forests, streams, shorelines and other important resources.

As of this report, approximately 100 such easements protect about 15,000 acres of land within the county. Most properties are in areas designated for limited development and environmental conservation in County land preservation plans. The County should continue to support these organizations with data sharing and other resources in their efforts to acquire conservation easements.

Historically, the Chesapeake Bay Foundation and the Nature Conservancy have also acquired land or easements to protect critical resources such as old growth forests and marshland. These sensitive resources are valued habitat protection areas for threatened and endangered species and the ecological diversity they preserve.

### **2. Rural Legacy and Program Open Space**

The Agricultural Security Rural Legacy Area was developed by the Eastern Shore Land Conservancy, in cooperation with Talbot and other Midshore counties, in order to preserve lands bordering waterways such as the Tuckahoe River in the northeast corner of the county.

The Talbot portion on the Tuckahoe is part of an upper shore Agricultural Security Corridor,

established to help safeguard the Eastern Shore's agricultural economy. The northeast quadrant of the county is a hub of agricultural production and investment, stressing the importance of land preservation. About 830 acres in the county have been preserved through Rural Legacy easements.

Future Rural Legacy Areas may provide for additional protection of farmland paralleling MD Route 404, in cooperation with Queen Anne's County, in an effort to maintain the Corridor's Rural Character in spite of ongoing transportation system improvements.

### 3. DNR Lands

The Maryland Department of Natural Resources (DNR) manages several publicly owned parks and protected sites in Talbot County. These 238 acres of public lands include Black Walnut Point Natural Resource Management Area, Bill Burton Fishing Pier State Park, Wye Oak State Park and Seth Demonstration Forest. The sites provide recreational water access, passive recreational opportunities and natural resource services to local residents and visitors alike.

### 4. TDR Lands

Transfer of Development Rights (TDR) lands are properties that have participated in a County managed TDR program and have sold or transferred development rights from one property to another, preserving land as open space or agricultural lands. The County does not permit TDRs at present.

## C. Priority Preservation Areas

The Talbot County Department of Planning and Zoning adopted a Priority Preservation Area (PPA) plan as an element of the Comprehensive Plan, in 2009. The element was required for counties with certified MALPF programs. The intent was to assure that State funds were used in a strategic fashion to meet local goals.

The Talbot County PPA encompasses approximately 83,000 acres and includes the majority of existing MALPF easements and prospective properties, the Tuckahoe Rural Legacy area, and several conservation easements (see Map 5-1). The PPA is home to a high percentage of local farm owner/operators. Farm operations are diverse, ranging from grain and poultry, to aquaculture, greenhouse and hydroponic growers, wine grapes, artisan cheeses and specialty produce. The area hosts a variety of agricultural support services including grain storage facilities, agricultural equipment dealers and a network of specialized service providers.

The PPA also contains high concentrations of the most productive soils in the county and is capable of supporting profitable agricultural and forestry enterprises. In 2004, Talbot County partnered with The Conservation Fund to develop a Green Infrastructure Plan identifying and evaluating areas of high natural resource and agricultural value (see Chapter 2, Section IV). This research provided important background toward establishing a viable priority area.

Virtually all land in the PPA is designated for agriculture in the County Zoning Ordinance.

**Agricultural Conservation (AC)** zoning predominates, with slightly more restrictive **Rural Conservation (RC)** zoning in the Chesapeake Bay Critical Area. The County has no plans to extend sewer or water into the PPA.

Almost all of the PPA has been designated Tier 4 in accordance with the *Sustainable Growth and Agricultural Preservation Act*. Tier 4 is designated for limited development, and each parcel is

limited to seven new subdivisions, regardless of the acreage of the parent parcel.

Zoning places other constraints and restrictions on non-agricultural development activities in order to minimize conflicts with agriculture. Among the uses not permitted in the PPA are Auto Service Stations, Hospitals, Hotels, Manufacturing, Nightclubs, Offices, Indoor Recreation Facilities, Major Retail and Solid Waste Disposal. Prohibiting large or intensive non-residential development will minimize the threats of conflicting uses, heavy traffic and the lure to take land out of agricultural production.

The County has worked to minimize constraints or restrictions on farm related activities by amending zoning regulations to accommodate a range of contemporary uses. For example, farm markets, produce stands, wholesale and retail greenhouses, fish and game hatcheries, and riding stables are all permitted uses in agricultural areas.

The PPA is bound and bisected by major traffic and tourism routes to Maryland and Delaware beaches. Despite the obvious attraction to develop these byways, non-agricultural development has been restricted almost exclusively to the incorporated towns along the highways.

Also included in the PPA are the villages of Cordova, Bruceville, Ivytown, Williamsburg and Wye Mills, which are emblematic of Talbot County's agricultural heritage. For example, Wye Mills traces its roots to the Colonial period when the extant grain mill was first established. Cordova's history dates to the 20th Century commodity-based agricultural boom, and remains central to grain and poultry production.

There are approximately 4,130 parcels of record in the PPA. Of those, about 650 parcels are 50 acres or greater; 488 of those MALPF-qualifying parcels are not yet preserved or enrolled in a preservation program. The parcels that would qualify for the MALPF program amount to approximately 70,000 acres of farm and forest land.

Talbot County has retained a 'district' registration system based on the former statewide requirement, with a nonbinding 3 year program commitment. The Department of Planning and Zoning encourages registration as a district to assure that a parcel meets program requirements and that landowners are contacted during each application cycle.

### **Land Preservation Policies**

5.7 The County should encourage rural property owners to participate in land preservation easement programs offered by national, State, regional and local land trust organizations.

5.8 The County should work with local farmers and the Maryland Agricultural Land Preservation Foundation to encourage the greatest possible participation in the program.

5.9 The County should monitor the effectiveness of current incentives designed to preserve working farmland and open space by reviewing land use changes in the Rural Reserve planning area.

5.10 The County should examine opportunities to create additional tax or other incentives to preserve farmland.

5.11 The County will maintain a Priority Preservation Area program that specifies goals, an implementation program, program evaluation, and program development strategy.

### III. Summary

If Talbot County continues to secure MALPF easements at its historic rate, it will take over 100 years to reach agricultural land preservation goals. In order to achieve a 20-year preservation goal of 56,000 additional acres, easements would need to be acquired at a rate of 2,800 acres per year.

Adequate funding is the most significant impediment to achieving County preservation goals. Funds are scarce at every possible level of source. Interest in land preservation has remained strong through periods of scarce funding and episodes of extraordinary fluctuations in land and easement values.

To the public, there is no apparent difference between permanently preserved land and other farm property. Whether land remains in agriculture because commodity prices are high, or because the demand for new housing is low, County policies appear to be working when new residential subdivisions are not emerging on the landscape.

Talbot County is not unique in this respect. All Maryland counties face challenges and tradeoffs in their efforts to manage land development while working cooperatively with landowners. As development restrictions increase, the motivation for landowners to participate in preservation programs diminishes.

State legislation establishing Priority Preservation Areas and limiting the number of subdivisions allowable on septic systems (see Chapter 2, Tiers) have added greater focus to the goals of preserving viable agricultural areas and limiting a pattern of sprawling development. The challenge for Talbot County is to combine such regulations with policies that support farm families and businesses in their endeavors.

To a great extent, County policies have been working. A combination of ‘moderately protective’ zoning, land use priorities backed by incentives and regulations, and Right to Farm legislation all serve to keep agriculture viable.

Thanks to Talbot County’s longstanding local traditions, affinity for a rural landscape, and a healthy regional market for agricultural products, the motivation to preserve agricultural land and agricultural industry remains strong.

| 5.1 Talbot County Farm Statistics, 1982-2012 |         |         |         |         |         |         |         |
|--|---------|---------|---------|---------|---------|---------|---------|
| Farm number and size                         | 1982    | 1987    | 1992    | 1997    | 2002    | 2007    | 2012    |
| Number of farms                              | 350     | 280     | 250     | 240     | 288     | 305     | 328     |
| Average size (acres)                         | 342     | 389     | 423     | 457     | 367     | 357     | 364     |
| Land in farms (acres)                        | 119,684 | 109,032 | 109,108 | 109,572 | 105,729 | 109,002 | 119,481 |
| Source: USDA Census of Agriculture           |         |         |         |         |         |         |         |

| 5.2 Talbot County Priority Preservation Area Goals |         |              |                |
|--|---------|--------------|----------------|
|  | acres   | farms (est.) | % of farm land |
| Farm Land (Census of Agriculture, 2012)            | 119,481 | 328          | 100%           |
| MALPF Preserved Land (2012)                        | 10,905  | 71           | 10%            |
| MALPF Eligible Land in PPA                         | 70,000  | 488          | 64%            |
| 20 Year MALPF Preservation Goal                    | 56,000  | 391          | 51%            |